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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,498

06/05/2006

Rene Rye Larsen

GNR P466 PCT US

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01/28/2010

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EXAMINER

ROBINSON, RYAN C

ART UNIT

PAPER NUMBER

2614

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/559,498	<b>Applicant(s)</b> LARSEN, RENE RYE	
	<b>Examiner</b> RYAN C. ROBINSON	<b>Art Unit</b> 2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 October 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 11-17 and 35-40 is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 18-34 is/are rejected.
- 7) ☒ Claim(s) 19-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/6/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9, 10 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 9, 10 and 28 recite the limitations "devices in the network" and "all other devices in the network" respectively. There is no antecedent basis for this limitation in the claim, since the parent claims do not recite a device or devices. Examiner suggests changing the limitation to "another device" or "further devices".

3. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 30 recites the limitation "the transceiver". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 18, 28-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakob, U.S. Patent No. 7,254,246, filed on 1/22/2002, (hereby Jakob) in view of Kuhnel et al., U.S. Publication No. 2004/0190737, filed on 3/25/2003, (hereby Kuhnel).**

6. As to claim 18, Jakob discloses a binaural hearing aid system (Fig. 3) comprising: a first (1<sub>L</sub>) and a second (1<sub>R</sub>) hearing aid that are interconnected through a network (7) for data exchange, wherein the first hearing aid is configured to act as master of the network (Col. 6, lines 20- 21) to thereby perform data transmission more often than reception (Col. 6, lines 26-29). It is noted that Jakob does not disclose that the network is a wireless network. However, the use of a wireless network instead of a wired network would have been well known. Kuhnel teaches the use of a hearing aid linked with a wireless network (Para. 0020, lines 8-9). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention, to provide a wireless network instead of a wired one in the hearing aid system taught by Jakob, in order to provide the commonly understood benefit of wireless transmission.

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7. As to claim 28, Jakob and Kuhnel remain as applied above. Jakob further discloses that when the first hearing aid acts as the master in the network, all other devices in the network synchronize to a timing of the master (Col. 5, lines 64-67).

8. As to claim 29, Jakob and Kuhnel remain as applied above. Jakob further discloses that a new device is automatically recognizable by the network and interconnected with the network. (The master can send control signals and receive acknowledgement signals; Col. 6, lines 40-44).

9. As to claim 31, Jakob and Kuhnel remain as applied above. Jakob, when combined with Kuhnel further discloses a remote controller (Col. 5, lines 24-26) for communication with the first hearing aid through the wireless network.

**10. Claims 30 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakob, U.S. Patent No. 7,254,246, filed on 1/22/2002 (hereby Jakob), Kuhnel et al., U.S. Publication No. 2004/0190737, filed on 3/25/2003, (hereby Kuhnel), further in view of Niederdränk, U.S. Patent No. 7,174,026, filed on 1/14/2003 (hereby Niederdränk).**

11. As to claims 30 and 33-34, Jakob and Kuhnel remain as applied above. Jakob and Kuhnel do not explicitly disclose that the transceiver is further adapted for reception of data from devices that do not receive data from the network, or is configured to

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communicate with a mobile phone or a broadcast system through the wireless network.

However, providing the reception of data from other devices was well known.

Niederdränk teaches the reception of data from devices that to not receive data from the network, and communicating with a mobile phone or a broadcast system through the wireless network (Col. 1, lines 65-66). Therefore, it would have been obvious to one of ordinary skill, at the time of Applicant's invention to receive data from devices that to not receive data from the network, and communicate with a mobile phone or a broadcast system through the wireless network, in order to provide more listening options for the user.

**12. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jakob, U.S. Patent No. 7,254,246, filed on 1/22/2002 (herby Jakob), Kuhnel et al., U.S. Publication No. 2004/0190737, filed on 3/25/2003, (hereby Kuhnel), further in view of O'Brien, U.S. Publication No. 2005/069163, filed on 10/8/2002 (hereby O'Brien).**

13. As to claim 32, Jakob and Kuhnel remain as applied above. It is noted that Jakob and Kuhnel do not disclose that the first hearing aid is configured to communicate with a fitting instrument, through the wireless network. However, providing a fitting instrument to communicate wirelessly was well known. O'Brien teaches a fitting instrument communicating through a wireless network (Para. 0019, lines 1-5). Therefore, it would have been obvious to combine a fitting instrument communication through a wireless

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network, with the hearing aid system taught by Jakob and Kuhnel for the commonly understood benefit of wireless communication.

***Allowable Subject Matter***

14. Claims 1-8, 11-17 and 35-40 are allowed. The following is a statement of reasons for the indication of allowable subject matter: Independent claim 1 recites the unique feature of controlling the transceiver to transmit synchronization data at intervals that are longer than intervals between the transmitted interrogation data in the acquisition mode. The closest prior art does not disclose or suggest this feature.

15. Claims 19-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Claim 19 recites the unique feature of controlling the transceiver to transmit synchronization data at intervals that are longer than intervals between the transmitted interrogation data in the acquisition mode. The closest prior art does not disclose or suggest this feature.

***Conclusion***

The prior art made of record

- |    |                       |                     |
|----|-----------------------|---------------------|
| a. | US Patent Number      | <b>7,254,246</b>    |
| b. | US Publication Number | <b>2004/0190737</b> |
| c. | US Publication Number | <b>2005/069163</b>  |

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan C. Robinson whose telephone number is (571) 270-3956. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan Robinson

Patent Examiner

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614